

WOODROW WILSON REHABILITATION CENTER POLICIES AND PROCEDURES	
Title: <b>INFORMATION AND RECORDS</b>	
Policy Number: <b>5.02</b>	
Effective Date: <b>12/85</b>	Page <b>1</b> of <b>13</b>
Lead Department: <b>MEDICAL/VOCATIONAL RECORDS</b>	

## **OBJECTIVE**

To assure the proper disclosure of information in accordance with federal legislation which has established rules and regulations for the administration of state vocational rehabilitation services; to maintain compliance with the HIPAA regulations, the Code of Virginia and statutes for the Virginia Freedom of Information Act and Privacy Protection Act; and the WWRC Patient/Client Rights.

## **POLICY**

### **A. Disclosure**

We will comply with State statutes in disclosing information on clients. ("Disclosing" means releasing, transferring, or communicating orally, in writing, or by any audio, video, computerized, satellite or electronic means.)

1. The client ages 18 and above may review, challenge, amend, obtain a copy of, or disclose any information about himself/herself. (To disclose information, the client should follow the procedures described in Section IV.) Family members, friends whom clients may consider as "significant others", attorneys, employers and other parties may not have access to information unless they are:
  - a) Representatives of a client who has been legally declared incompetent. These representatives are court appointed and may be either individuals or committees. We may request that these representatives furnish proof of their responsibilities.
  - b) Personnel, agencies and organizations named in Regular Access List (Section VII).
  - c) Persons declared to have the right to information by judicial order.

EXCEPTION: RESTRICTION ON THE CLIENT'S RIGHT TO ACCESS

The client may not have direct access when the treating physician or clinical psychologist has written on any report: "In my opinion a review of such records by the client would be injurious to the client's physical or mental health or well-being." In this case, the client must receive information about the report from a clinical psychologist, a physician or a licensed certified psychologist. The treating physician is the only professional who, by statute, has the authority to identify and label a record, which will deny access to the client. No other professional can restrict any other information.

2. When the client is under 18, only the parent(s)/guardian(s) of the client may have access to information/records. The parent(s)/guardian(s) should be prepared to furnish personal identification and sign a statement regarding their relationship to the client.

**B. Confidentiality**

We will follow procedures that ensure that all records and other personal, identifying data are treated as confidential information. Information will be disclosed to service providers and parties named in Section E: Access List for the purpose of administering rehabilitation services. We will not release information to other parties without the written informed consent of the client or his/her representative, except by judicial order.

**C. Necessity of Information**

We will obtain and document only that information which is necessary to plan and deliver rehabilitation services.

**D. Pre-Admission Information**

We will include pre-admission information as part of the WWRC chart/ folder. However, as this information was obtained for the purpose of planning WWRC services and not for subsequent re-disclosure, records obtained from another agency or organization will be released only with a signed authorization by the client or his/her legal guardian who specifically authorizes WWRC to release this information. The authorization will list report title, report date, and originating facility for each report to be released. The action of choice, however, will be to advise clients and other parties who seek pre-admission information to contact the original source.

**E. Access List: Personnel**

We will post a Regular Access List in Admissions, Student Health, and each Medical Unit and in the Medical/Vocational Records Department. The list will designate staff positions of those that may review and check out charts or records. The list will also include agencies and organizations, which can receive specific information without the client's written consent.

**F. Consent Expiration**

We will accept a written consent form as a current release when we receive it within one year of the client's dated signature, unless there is an earlier expiration date or the client has died.

**G. Copy Charge**

We will charge for copies of records unless the request is from those who need information to assist the client in assuring continuity of care in the rehabilitation process.

**H. Record Security and Storage**

The Medical/ Vocational Records Department will safeguard records and ensure confidentiality. Records will be kept on WWRC premises unless in accordance with a judicial order, statute, special authorization from the DRS Commissioner or Center Director, or in compliance with the Center Retention and Disposal Plan.

**HANDLING REQUESTS FOR INFORMATION**

**A. When, Who, How**

1. **When?** We will handle requests to disclose information during regular business hours, except for emergencies that will be taken care of immediately.
2. **Who?** The Medical/Vocational Records Department will acknowledge written requests for information which occur after a client's enrollment.
3. **How?** Either during pre-admission or on the day of admission, we will advise a client about confidentiality policies and determine what specific information/records are to be disclosed to named individuals or other parties.
4. **How?** The Medical/Vocational Records Department will handle each written request, will record each request and document the action taken. The Records Department will respond within 14 days. Emergencies will be handled immediately according to criteria and procedures described in Section entitled "Handling Emergencies and Life-Threatening Situations".
5. An employee who verbally releases information will document in the client's record by recording employee's name, date, content of disclosure, reason for disclosing specific information, and name of recipient of information.
6. When an 18-year-old client has a parent or friend who wishes to review a record or accompany the client to a meeting in which the rehabilitation program is to be discussed, the client will sign the Consent Form prior to the review or meeting.

7. We will advise recipients of any verbal information that information is for their use only. The Medical/Vocational Records Department will mark each copy that is to be released: "No Re-disclosure Permitted."
8. We will release only that information specifically requested.

**B. Responsibilities of Admissions Personnel, Counselors and Physicians**

**1. Admissions**

Admissions will identify what specific reports need to be sent to a sponsor as part of the rehabilitation program. If the sponsor is not on the Regular Access List, we will obtain written informed consent from the client using the Consent to Release Information Form prior to adding sponsor's name to the enrollment sheet as a recipient of routine Center reports.

**2. Counselors**

- a) During initial interviews, counselors will explain confidentiality policies and conditions for releasing information. Clients (except minors and those who have an appointed guardian) will be personally responsible for decisions and activities while at the Center and away from the facility. Therefore, the counselor needs to determine with the client what information may be shared with family or friends who may be involved with the client's personal life.

"Informed consent" means that the client is aware of what specific information is to be disclosed. Therefore, counselors will ask the client to sign the Consent Form, which identifies what information may be released. Statements can include, but are not limited to: setting program objectives or deciding future discharge and employment plans; being hospitalized for planned medical services (individual who is named on enrollment sheet for emergencies will be contacted for any life-threatening situations); and discussing any actions and decisions which may involve disciplinary matters, suspension or discharge.

- b) Counselors may advise family or referral source to seek temporary or long-term custody of the client who, by cause of severe disability is experiencing impaired memory, reasoning ability or judgment. In these situations, counselors need to use professional judgment and evaluate the impact of any handicapping conditions as they relate to the client's capability to make competent decisions. If the client is making decisions that may be detrimental to his/her future welfare, the counselor then will put any concern in writing and contact the family or referral source to make a decision. Counselors can refer questionable cases to a supervisor and then, if necessary, to WWRC Risk Manager or Center Director.

- c) When a client requests a review of his/her WWRC records, the individual should be referred to the Center counselor or, in his/her absence, the counselor's supervisor. This employee will confirm the client's age and competency status for accessing information.
  - (1) For those clients who are under age 18 or who have been declared incompetent, the counselor will assist the client by coordinating the desired review with the parent(s) or representative.
  - (2) For clients who have the right to review records, the counselor should review the WWRC chart/record to learn if there are any medical or mental records which have been restricted by a treating physician. These are the only reports that can and must be removed before access.
  - (3) As the official record must be understandable to the client, a professional employee (counselor or supervisor) will give the client the WWRC chart or record and will remain with the client during the review to interpret reports or to assist the client, who may wish to seek additional information regarding the contents. The staff will respect the client's right of privacy but will ensure that information is not added to or removed from the record at this review.
- d) Clients who request a copy of records will be instructed to complete a Consent Form. The counselor sends the form to the Medical/Vocational Records Department that will prepare a copy for the client. The counselor shall ensure that the client is aware of the charge for this service.

### **3. WWRC Physicians**

- a) When other staff question whether their record may be injurious to the client's physical or mental health or well-being, the treating physician will review the record, and if it is felt to be appropriate, will restrict access to the client.
- b) WWRC medical staff members may release information to other physicians for consultation and treatment purposes. The attending physician may include pre-admission material when deemed necessary.

### **C. Handling Directory Information Requests from Callers or Visitors**

We will inform callers or visitors about confidentiality policies that limit personal information to facts about current enrollment status (e.g., enrolled, on leave or discharged).

If a call or visit concerns a client who is currently enrolled, a message can be taken and delivered to the client or representative. It then becomes their responsibility to determine if they want to contact the caller or visitor. If the client is no longer at the Center, an employee will offer to call or send any message to the client.

**D. Handling Emergencies and Life-Threatening Situations**

1. Information may be disclosed during an emergency when it is reasonable to believe that a delay will pose a threat to the client's safety, the safety of others or result in either serious bodily injury, deterioration of physical/mental health or death. At WWRC, authority to disclose such information is permitted by a counselor, counseling supervisor, physician, or Records Department personnel and is limited to that which is necessary to deal with the emergency of a life-threatening situation. Examples:
  - a) When there is an emergency admission or commitment to another hospital.
  - b) When acute care hospital personnel require specific information from WWRC records.
  - c) When law enforcement officials need specific information for an emergency.
  - d) When reporting an unsafe licensed driver/ subject to the Department of Motor Vehicles. This condition will be considered as imposing a life-threatening situation after a medical evaluation has been determined that the individual is not a safe driver, but the person will not voluntarily relinquish license. The individual should be informed of the reason for sending a medical statement to DMV and the regulations that permit such disclosure.
2. When it becomes necessary to release information for emergencies, the responsible employee will sign and date entry into the client's record with the following documentation:
  - a) Reference to Center policy.
  - b) The reason and the specific information which was released.
  - c) The reason why a written informed consent could not be obtained.
  - d) The person to whom the information was released.

**E. Handling Depositions, Subpoenas, Subpoenas Duces Tecum, and Court Orders**

1. As Vocational Rehabilitation and Independent Living are programs covered by Federal regulations, employees will release records or testify only on receipt of an informed written consent or a judicial order. (A judicial order can either be a court order signed by a judge or a judge's written command to testify or produce records in court.) Whenever an employee receives a subpoena, a subpoena duces tecum or a deposition, the employee will request or confirm that a current (dated within the past year) informed written consent is on file. If consent is not available, a judicial order will be required.
2. Employees will notify Management Support Services of all depositions, subpoenas and court orders received. That office will advise the employee of his/her responsibilities. Responses to these requests will be coordinated with the employee, Medical/Vocational Records staff, the respective attorney, and, if necessary, the Assistant Attorney General prior to compliance.
3. Unless ordered, pre-admission material will not be released as a WWRC document.
4. Employees who testify as rehabilitation service providers will disclose only that information about which they have had personal knowledge or experience.

**F. Handling Special Requests**

**1. From third party payers**

A written informed consent will be required to provide whatever information is necessary for collecting payment.

**2. From news media**

A written informed consent will be required, except for public events and disclosure as Directory Information.

**3. From law enforcement officers**

Personal information will be released only to the extent necessary to respond to investigations in connection with law enforcement, fraud, or judicial order. The employee will record any disclosure.

## **PROCEDURES FOR CHANGING A RECORD**

### **A. Revoking an Authorization of Consent**

1. A consentor may rescind a prior authorization. This must be done in writing and once received, revokes all current authorizations, except to those individuals or parties named on the Regular Access List.
2. Medical/Vocational Records Department staff will clearly mark these folders.

### **B. Challenging and Correcting a Record by Client or Representative**

1. Upon request to do so, a client or his/her representative will be clearly advised of the right to challenge, correct or have explained any information in the information system, except when access is restricted by the treating physician. The following procedures will be followed:
  - a) Clients who are currently enrolled will be instructed by the Center counselor that any request to correct, amend, or delete information is to be done in writing, giving specific reasons why information is being contested.
  - b) The Center counselor will submit this statement to the originator of record or, in that person's absence, the department supervisor.
  - c) The originator will discuss the matter with the client and will advise him/her in writing whether the record will remain intact or if it will be changed. A copy of that statement and any changes will be sent to the Center counselor who, after review, will initial and forward it to the Medical/Vocational Records Department.
  - d) If the review with the originator/ supervisor does not resolve the dispute, the counselor will advise the client to file a statement of not more than 200 words setting forth his position.
  - e) This statement will become a permanent part of the record.
  - f) The Medical/Vocational Records Department staff will forward a copy of this additional information to all those who previously received the information now being challenged, and to those who will receive this information in the future.



**C. Correcting/Changing a Report Entry by Employees**

1. Employees may correct their own entries in an active chart/report which has not been sent to anyone by marking through the error with one line, inserting new wording above the error, and then signing and dating the entry.
2. Once a report has been distributed or filed in the Medical/Vocational Records Department, it becomes part of the permanent record and no hand corrections will be made. If corrections/changes are necessary, the employee will prepare an addendum to the report that explains the change. This addendum will be sent to the Medical/Vocational Records Department, where it will be attached to the original report and forwarded to recipients of the earlier records.
2. Records will not be changed any time there is a request to release information.
3. No employee shall change or remove another employee's report. In the event a change is required after the individual originating the report has left employment with WWRC, the former employee's supervisor may dictate an addendum and the reason requiring the addendum.

**E. Releasing for Audit, Evaluation and Research**

1. Personal information may be released to an organization, agency, or individually engaged in audit, evaluation, or research, only:
  - a) For purposes directly connected with the administration of the comprehensive rehabilitation program;
  - b) For purposes which would significantly improve the quality of life for persons with disabilities; and
  - c) If the organization, agency, or individual assures that:
    - (1) The information will be used only for the purposes for which it is being provided;
    - (2) The information will be released only to persons officially connected with the audit, evaluation or research;
    - (3) The information will not be released to the involved individual;
    - (4) The information will be managed in a manner to safeguard confidentiality; and

- (5) The final product will not reveal any personal identifying information (such as name, address, WWRC or Social Security Number) without the informed written consent of the involved individual, or his or her representative.
2. Individuals who are conducting educational research will inform the Medical/Vocational Records Department of their project. The researcher must provide a copy of research approval from the DRS Human Subjects Research Review Committee (See Policy 1.25).

## **PROCEDURES FOR SAFEGUARDING RECORDS**

### **A. Maintaining Security of Records**

1. Client records are the property of the Virginia Department of Rehabilitative Services. There will be safeguards that protect records from loss, defacement or use by unauthorized persons.
2. The Medical/Vocational Records Department, Student Health, Pre-Admissions, Admissions and Accounts Receivable Services employees will provide security of records in their respective areas. These units will have policies and procedures in departmental manuals that govern their individual day-to-day operations.
3. The Medical/Vocational Records Department will control access to charts/records and can request identification of anyone reviewing a chart. Consumers or individuals not on the access list may not enter the Records Library without approval from the Medical/Vocational Records Department Head. Consumers must make this request through their Case Manager.
4. The Medical/Vocational Records Department staff will assist in the control and access of records maintained in the STRU and SLS. All procedures, which apply to use of records for the Medical/Vocational Records Department staff, will apply also to the STRU and SLS personnel.
5. No one other than the originator of a document will mark, underline or enter notations on records.
6. No one will remove part of the client chart/ record for personal use or convenience.
7. No one will take an original record off Center premises unless directed by a Judicial Order, DRS Commissioner, the Center Director or the Retention and Disposal Plan. The Medical/ Vocational Records Department will provide a certified copy of the record after the necessary consent or authorization has been obtained.
8. The Medical/Vocational Records Department will not be left unattended and unlocked during working hours.

9. Employees who remove any chart from the Records Department for review purposes will sign the checkout notebook. An "out" guide will be put in the record's place. Staff will list their full name, client's name and current date. Staff will place a check mark by their name when the folder is returned to the Records Department.
10. Employees will return the chart/folder to the Medical/Vocational Records Department, STRU, SLS, or Student Health whenever review has been completed so that the record will be available to other staff. All charts will be returned by 4:15 p.m.
11. NO FOLDER will be kept out overnight. (EXCEPTION: Charts signed out to Medical or Vocational Admissions Department in preparation for a readmission.)
12. For security and immediate access, new admission charts will be delivered to Student Health after a client's admission.
13. Employees who check out charts will be responsible for assuring confidentiality of contents while in their possession. Employees will not leave a chart/record or other information unattended or where it can be accessible to unauthorized individuals.
14. Employees will maintain confidentiality and safeguards in work areas where reports are being prepared, filed, or distributed.
15. Unless the Medical/Vocational Records Department has granted permission, employees will not make copies of reports for personal use or keep files on clients other than those reports that originate in their department. These records will be locked and kept confidential.
16. Other individuals will not be charged when written informed consent has been given to view information. When records are copied, the Medical/Vocational Records Department will charge:

Finder's Fee - \$5.00 and \$0.50 per page for first 50 pages;  
\$0.25 for pages after 50

A bill for copied material will be attached to the information with instructions to make payment to the WWRC Business Office. A copy of the bill will be sent to the Business Office cashier.
17. The Medical/Vocational Records Department Office will have a plan for the retention and disposal of records that will be in compliance with DRS and State Archives policies and procedures.

**B. Violating Confidentiality**

Individuals who violate security standards or the confidentiality code may be subject to:

1. Having limited access, only with prior supervisory approval;
2. Receiving a Standards of Conduct notice appropriate to the violation;
3. Discontinuing any further association with DRS; and/or
4. Becoming subject to applicable civil and criminal penalties.

**ACCESS LIST**

1. The following State and Federal Agencies have been granted regular access (meaning that written consent is not required) either for the purpose of cooperative planning and provision of rehabilitation services or by authority of State and Federal law:

Virginia DRS: Information may be disclosed as required for administration of State program and for case management purposes. Written informed consent will be required for adjudication of DDS claims.

Virginia Cooperative Agreements: Information may be disclosed when "Confidentiality" is protected and referenced within each Agreement.

Blue Cross/Blue Shield, Medicare and Virginia Medical Assistance Program: These are contractual services as a provider relationship. Medical and financial records may be reviewed and audited on specific client's accounts.

Offices of the Attorney General and Governor for the Commonwealth of Virginia: Information may be disclosed as relevant to the administration of rehabilitation services.

Social Security Administration: Information may be disclosed regarding those clients who apply for or receive benefits.

U.S. Office of Secretary of Health, Education and Welfare: When the client or representative has asked Office to review a final decision of the DRS Commissioner, a complete and certified copy of case record, including records and transcripts of Commissioner's Fair Hearing decision, will be furnished.

U.S. Department of Education: May provide financial aid information on those clients who apply for or receive benefits.

Virginia Department of Health, Investigation of Diseases: Access will be given to medical records in the course of an investigation, research, or studies of diseases or deaths which are of public health importance.

Virginia Department of Health, State Medical Examiner: May release information as requested for a formal investigation.

Virginia Department of Health, Statewide Cancer Registry: May provide abstracts of records to include name, address, sex, race and other data required by law, of clients having malignant tumors or cancers.

Virginia Department of Social Services: Information may be disclosed regarding those clients who apply for or receive services.

Virginia Department of Social Services, Parent Locator Unit: Upon request, information shall be given about the location, income, and property of clients who have abandoned, deserted, or failed to support children and their caretakers who are receiving public assistance. No other information may be released.

Virginia Department of the Visually Handicapped: Information may be disclosed for clients who apply for or are receiving services.

Virginia Employment Commission: Information may be provided to assist in job placement and post-employment services.

Veterans' Administration: Information may be released to personnel who have responsibility to process an application or those assigned to provide benefits.

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